REMARKS

Summary of Interview

Applicants would like to thank the Examiner for an interview that was conducted on November 20, 2008. In accordance with MPEP § 713.04, this Summary of Interview memorializes the telephonic interview conducted between Patent Attorneys James P. Muraff (Reg. No. 39,785) and Michael R. Turner (Reg. No. 62,015), the Inventor, Kenneth Kiron, and Examiner Havan.

During the interview, Inventor Kiron provided a summary of the invention. Attorney Turner discussed the content of cited reference "Wolfberg" and discussed the amended claims. Attorney Turner also explained how the amended claims are not anticipated by Wolfberg. Attorney Muraff and Examiner Havan further discussed the status of the application and agreed that the claims in the application, as amended in the proposed response, overcome Wolfberg.

Drawings

Pursuant to the Examiner's objection to the drawings, Applicants submit herewith replacement drawings for all of the figures. Applicants submit that the replacement drawings overcome the Examiner's objections to the drawings.

Clean Set of Claims

Pursuant to the Examiner's request, Applicants also submit herewith a clean set of claims prior to the present amendments.

Arguments

Claims 53 and 90-101 are pending in this application and new claims 102-128 are being added herewith. Claims 94 and 97-101 have been cancelled, so claims 53, 90-93, 95-96, and 102-128 are presently being presented in this Response. No new matter has been added.

Independent claim 53 has been changed from a method claim to a system claim and has incorporated structural limitations including a computer memory and processor. The claim has been further modified and clarified to recite a processor that selects securities based on user defined criteria and combines them to form an exchange traded product that can be traded on an exchange in real time. Support for these modifications can be found generally in the Figures 1A and 1B and paragraphs 40-52 and 55-60 of the Specification, and specifically in paragraphs 41 and 60. Dependent claims 90, 91 and 93 have simply been modified to reflect the change of independent claim 53 to a system claim. Claim 92 adds an accounting system, support for which can be found in paragraph 55 of the Specification, for performing the previously recited calculations. New claims 102-112 are herein presented, all of which depend from independent claim 53.

Independent claim 95 has also been changed from a method claim to a system claim and has incorporated structural limitations including a display and an exchange clearing computer. The claim has been further modified and clarified to recite how the display and the exchange clearing computer can work together to facilitate the real time trading of a product including certain securities. Support for these modifications can be found in Figure 2 and paragraphs 55-57 of the Specification. Dependent claim 96 has simply been modified to reflect the change of independent claim 95 to a system claim. New claims 113-125 are herein presented, all of which depend from independent claim 95.

New independent claim 126 is herein introduced as an alternative means to claim the invention. In particular, claim 126 is directed to a method for creating and tracking an exchange traded product in accordance with the present invention. New claims 127 and 128 depend from independent claim 126.

In the recent Office Action, the Examiner rejected all pending claims under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,214,579 ("Wolfberg"). Wolfberg teaches a software tool for managing one or more client investment accounts that uses various algorithms to predict when certain financial goals of those accounts will be met given certain inputs. For instance, a client of a financial services company using the system defined by Wolfberg establishes an "initial investment (Xo)," a "monthly payment (Yo)," a "target goal (M dollars)" and a "timeframe (N years)." (Col. 4, Line 62 – Col. 5, Line 2). Using these and other variables, a "CPU creates the client investment account." (Col. 6, Line 56). The system comprises various other capabilities such as reviewing incoming deposits (Col. 9, Lines 53-60), reviewing loan requests (Col. 10, Lines 1-15), and decision making regarding when and how a financial services company should interface with the client owner of an account. (e.g., Col. 28, Lines 25-33).

However, Wolfberg does not teach selecting securities to include in an exchange traded product, shares of which can be traded at a real time determined price, as recited in claim 53 and claim 126. Furthermore, Wolfberg does not provide for processing real-time trades in an exchange traded product, as recited in claim 95 and described in claim 126. In addition, Wolfberg does not provide a method to account for risk or to otherwise leverage an account as recited in both claims 53 and 95. Accordingly, Wolfberg does not recite all of the elements of independent claims 53, 95 or 126.

In view of the above arguments and agreement during the recent Interview of November 20, 2008, Applicants, thus, respectfully submit that independent claims 53 and 95 overcome Wolfberg and are in condition for allowance. Additionally, new independent claim 126 is not anticipated by Wolfberg. As all other presented claims depend from one of these three independent claims, they incorporate the above mentioned limitations. Therefore, Applicants also submit that Wolfberg does not anticipate any of the dependent claims. It is, thus, believed that all presented claims are in condition for allowance based on this Amendment.

In addition to the amendments and comments discussed above, applicant has submitted updated drawings to satisfy the Examiner's stated objection under 37 CFR 1.121(d). It is, thus, believed that the Applicants have addressed all outstanding matters and that all pending claims are allowable.

CONCLUSION

Applicants request entry of the present amendments and examination of the pending claims. The Commissioner is authorized to charge any fee deficiency, or credit any overpayments, to Deposit Account No. 502261. The Examiner is invited to contact the undersigned if the Examiner believes an additional telephone conference would expedite allowance of the present application.

Respectfully submitted,

Dated: November 21, 2008   By: /James. P. Muraff/
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